

STATE OF INDIANA	)	IN THE PORTER SUPERIOR COURT
	) SS:	
COUNTY OF PORTER	)	CAUSE NO. <u>64D05-0612-PL-11191</u>

STATE OF INDIANA,	)
	)
Plaintiff,	)
	)
v.	)
	)
SCOTT THOMPSON,	)
Also known as	)
SCOTT KLENK,	)
Individually and doing business as	)
CORNHOLE GAMZ, and	)
THE BACKYARD BOARD COMPANY	)
	)
Defendant.	)

**FILED**  
**IN OPEN COURT**  
**MAY 01 2007** *SK*  
*Mary L. Wagner*  
Porter Circuit and Superior Court

**CONSENT JUDGMENT**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, and the Defendant, Scott Thompson, also known as Scott Klenk, individually and doing business as Cornhole Gamz and The Backyard Board Company, hereby agree to entry of a Consent Judgment without trial or adjudication of any issue of fact or law herein.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana and avoid further litigation. This Consent Judgment does not constitute an admission by the Defendant of any wrongdoing, nor shall it be construed as an abandonment by the Attorney General of his position the Defendant violated Indiana's Deceptive Consumer Sales Act and Home Solicitation Sales Act. The parties consent to entry of a final judgment in this proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

## **JURISDICTION, SCOPE OF JUDGMENT, AND ACKNOWLEDGMENTS**

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.

2. The State of Indiana's Complaint for Injunction, Restitution, Costs, and Civil Penalties states a cause of action pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, and the Indiana Home Solicitation Sales Act, Ind. Code § 24-5-10-1, *et seq.*

3. At all times relevant to the Plaintiff's Complaint, the Defendant, Scott Thompson, also known as Scott Klenk, was an individual, previously doing business as Cornhole Gamz and The Backyard Board Company, with a principal place of business in Porter County, located at 151 North 9th Street, Chesterton, Indiana, 46304, and transacted business with consumers both in-person and via the Internet.

## **RELIEF ORDERED**

4. The Defendant is permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. in the course of engaging in home consumer transactions, failing to provide consumers with two (2) copies of a written notice of the consumers' right to cancel the transaction consumers, as required by Ind. Code § 24-5-10-9;

- b. in the course of engaging in home consumer transactions, failing to return to the consumer any payment or other consideration transferred to the supplier by the consumer within ten (10) business days after the consumer's notice of cancellation is delivered to the Defendant;
- c. representing, expressly or by implication, the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have which the Defendant knows or reasonably should know it does not have;
- d. representing, expressly or by implication, that such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the Defendant knows or reasonably should have known the representation is false;
- e. representing, expressly or by implication, the Defendant is able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendant knows or reasonably should know he cannot or will not; and
- f. representing, expressly or by implication, the consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendant, if the Defendant does not intend to sell it.

5. The Defendant's contracts with Consumers, Erin and Jason Isaac, Chris Cornwell, Justin Cuvelier, Jon Wickersham, Sandy Clark, Scott A. McDonald, Shuan Reinoehl, Roberta Fashimpaur, Jim Koch, William Timmer, Jeff Wierus, Joseph Janczewski, Rick Blasek, Dani Parrotte, Regina Adamezyk, Dave Skocik, Linda Brady, Tracy Correa, Alicia Garcia, Carrie Poulter, Deborah and Robert Anderson, Ken and Erin Jansky, Nancy Kawalski, Jim and Barb Stack, Victor Veloz, Linda Coros, Julie Costa, Margie Delorme, Julie Johnson, Daniel Kennedy, Claudia Kleyweg, Lisa Malchow, Stan Penziol, Laura Schutt, Lisa Yost, and Michael and Rachel Youngberg are hereby cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

6. The Defendant shall pay consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2) in the total amount of Four Thousand Three Hundred Twenty Dollars and One Cent (\$4,320.01), payable to the Office of the Attorney General, for allocation and distribution to the following aggrieved consumers in the following amounts:

- |    |  |            |
|----|--|------------|
| a. | Erin and Jason Isaac of Indianapolis, IN | \$ 137.75; |
| b. | Chris Cornwell of Pittsboro, IN          | \$ 137.75; |
| c. | Justin Cuvelier Terre Haute, IN          | \$ 115.00; |
| d. | Jon Wickersham of Dayton, OH             | \$ 30.00;  |
| e. | Sandy Clark of Twinsburg, OH             | \$ 164.95; |
| f. | Scott A. McDonald of Stevensville, MI    | \$ 268.00; |
| g. | Roberta Fashimpaur of Plainfield, IL     | \$ 143.57; |
| h. | Jim Koch of Erlanger, KY                 | \$ 167.75; |
| i. | William Timmer of Cincinnati, OH         | \$ 130.95; |
| j. | Jeff Wierus of Orland Park, IL           | \$ 123.45; |

k.	Joseph Janczewski of Tinley Park, IL	\$ 123.45;
l.	Rick Blasek of Schaumburg, IL	\$ 131.45;
m.	Dani Parrotte of Harvard, IL	\$ 327.00;
n.	Regina Adamezyk of Calumet City, IL	\$ 116.55;
o.	Dave Skocik of Palos Heights, IL	\$ 212.00;
p.	Linda Brady of South Bend, IN	\$ 211.89;
q.	Deborah and Robert Anderson of Gary, IN	\$ 70.00;
r.	Ken and Erin Jansky of Griffith, IN	\$ 20.00;
s.	Nancy Kawalski of Griffith, IN	\$ 115.00;
t.	Jim and Barb Stack of Chicago, IL	\$ 135.00;
u.	Victor Veloz of Whiting, IN	\$ 116.55;
v.	Linda Coros of Valparaiso, IN	\$ 122.00;
w.	Margie Delorme of Tinley Park, IL	\$ 120.00;
x.	Julie Johnson of Valparaiso, IN	\$ 132.00;
y.	Daniel Kennedy of Valparaiso, IN	\$ 122.00;
z.	Claudia Kleyweg of Chesterton, IN	\$ 334.00;
aa.	Lisa Malchow of Winamac, IN	\$ 122.00;
bb.	Stan Penziol of La Porte, IN	\$ 124.95;
cc.	Laura Schutt of Crown Point, IN	\$ 20.00;
dd.	Lisa Yost of Naperville, IL	\$ 100.00; and
ee.	Michael and Rachel Youngberg	<u>\$ 125.00.</u>
<b>Total:</b>		<b>\$4,320.01</b>

7. The Defendant shall pay the Office of the Attorney General, pursuant to Ind. Code § 24-5-0.5-4(c)(3), the amount of One Thousand Dollars (\$1,000.00), representing the Plaintiff's costs of investigating and prosecuting this action.

8. The Defendant shall pay the Office of the Attorney General, pursuant to Ind. Code § 24-5-0.5-4(g) and Ind. Code § 24-5-0.5-8, the amount of Two Thousand Dollars (\$2,000.00), representing civil penalties for the Defendant's knowing and intentional violations of the Deceptive Consumer Sales Act.

9. **A total monetary judgment in the amount of Seven Thousand Three Hundred Twenty Dollars and One Cent (\$7,320.01) shall therefore be entered in favor of the Plaintiff, State of Indiana, and against the Defendant, Scott Thompson, also known as Scott Klenk, individually and doing business as Cornhole Gamz and The Backyard Board Company.**

10. The Defendant shall cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives. This shall include, but is not limited to, the Defendant promptly resolving valid consumer complaints brought to the Defendant's attention by the Office of the Attorney General, either prior to, or after the filing of, this Consent Judgment with the Court.

#### **CONTINUING JURISDICTION**

11. For the purpose of enforcing the provisions of this Consent Judgment, any subsequent Court obtaining jurisdiction over the Defendant based upon a complaint alleging a violation of any law that is the subject of this Consent Judgment may take judicial notice of this Judgment. The Defendant waives any objection regarding a

Court's jurisdiction to punish for contempt and agrees to appear upon proper notice of a failure to comply with any of the provisions of this Judgment.

IN WITNESS WHEREOF, the parties have executed this Consent Judgment this

25 day of April, 2007.

STATE OF INDIANA  
STEVE CARTER  
Indiana Attorney General

by:

Terry Tolliver  
Terry Tolliver  
Deputy Attorney General  
Attorney No. 22556-49

Scott Thompson

SCOTT THOMPSON,  
also known as  
Scott Klenk,  
individually and doing business as  
Cornhole Gamz, and  
The Backyard Board Company

Approved:

Jaime L. Turley Perz  
Jaime L. Turley Perz  
Counsel for the Defendant

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED

this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Mary R. Harper  
Judge, Porter Superior Court

Distribution:

Terry Tolliver  
Office of the Attorney General  
302 W. Washington St., IGCS 5<sup>th</sup> Floor  
Indianapolis, IN 46204

Jaime L. Turley Perz  
Terrell & Thrall, LLP  
Memorial Center, Suite One  
1158 West Lincolnway  
Valparaiso, IN 46385